

HEALTHY AND WELL KIDS IN IOWA (*hawk-i*) PROGRAM
BOARD MEETING MINUTES
June 20, 2011

Board Members

Angela Burke Boston (for Susan Voss)
Kim Carson, Chair (absent)
Jim Donoghue (for Jason Glass)
Joe Hutter
Julie McMahon (for Mariannette Miller-Meeks)
Kathy Pearson
Bob Skow

Legislative Board Members

Senator Amanda Ragan (absent)
Senator Jack Whitver
Representative Mark Lofgren
Representative Patrick Murphy (absent)

Department of Human Services Staff

Anita Smith Anna Ruggle Jennifer Vermeer

Attorney General's Office

Brad Horn

Guests

Marcia Stark
Nancy Lind
Kristine Klauer
Melissa Ellis
Jeremy Morgan
Lynh Patterson

Affiliation

Wellmark
UnitedHealthcare
UnitedHealthcare
IDPH
MAXIMUS
Delta Dental of Iowa

Call to Order and Roll Call

The Healthy and Well Kids in Iowa (*hawk-i*) Board met on Monday, June 20, 2011. Angela Burke Boston called the meeting to order at 12:35 p.m. in the absence of the Chair, Kim Carson. Anita Smith called the roll. A quorum was present.

Welcome, Introductions

Ms. Boston asked the audience members to introduce themselves.

I. Introduction of New Board Members

Kathy Pearson is from Cedar Rapids and is a small business owner of a technical employment recruiting firm. Bob Skow lives outside Dallas Center and is head of the Independent Insurance Agents of Iowa. Senator Jack Whitver was elected in January and represents Ankeny, Grimes, and all of northern Polk County. Representative Mark Lofgren is a financial planner from Muscatine.

II. Approval of April 18, 2011 Minutes

Mr. Skow moved to approve the April 18, 2011, minutes and Jim Donoghue seconded. The motion was approved unanimously.

III. Approval of May 16, 2011 Minutes

Mr. Skow moved to approve the May 16, 2011, minutes and Julie McMahon seconded. The motion was approved unanimously.

IV. Approval of May 18, 2011 Minutes

Mr. Donoghue moved to approve the May 18, 2011, minutes and Ms. McMahon seconded. Discussion: Joe Hutter asked Brad Horn if it was proper for someone to approve minutes when they were not present at the meeting. Mr. Horn stated he would need to review Robert's Rules of Order before answering. Mr. Horn did state that they are Board members and he believed it was ok. The motion was approved unanimously.

V. Administrators Report

• **Enrollment Update.**

Anita Smith reported that to-date there has been a 10% increase in the CHIP enrollment which includes Medicaid expansion and the *hawk-i* program. Medicaid Expansion has been a modest 3% increase, while the *hawk-i* program has been 12%, and the dental only program has the biggest increase with 35%. Staff are projecting the SFY 2012 enrollment will increase by 11% overall.

• **SFY 2011 Budget Update**

Ms. Smith explained the May budget report. Funding available for the *hawk-i* program for SFY 2011:

Funding Sources	Amount
2011 Appropriation	\$23,637,040
Carryover from the <i>hawk-i</i> trust fund	\$5,671,710
HF2539 Health care reform bill	\$7,751,883
Outreach and PERM dollars	\$166,600
Total	\$37,227,233

Staff projects how much of the appropriation is actually going to be expended based on monthly enrollment trends. Expenditures as of May month-end were:

Category	Projected Expenditures	Actual Expenditures	% of Projected Expenditures
Medicaid Expansion	\$8,552,436	\$6,336,482	74%
<i>hawk-i</i> premiums	\$22,939,093	\$22,435,371	98%
Supplemental Dental program	\$712,297	\$248,051	34%

Processing Medicaid claims and AG's fees	\$450,150	\$353,457	78.5%
<i>hawk-i</i> administration	\$1,451,396	\$823,040	57%
Earned interest from <i>hawk-i</i> trust fund		-\$48,965	
Total	\$34,490,872	\$30,372,396	88%

No shortfalls are expected for SFY 2011.

Mr. Hutter asked what percentage of the total budget are administrative costs. Ms. Smith replied that the federal CHIP law mandates that administrative costs can't exceed 10% of what is spent on benefits. Administrative costs include what is paid to the third party administrator (MAXIMUS), state staff salaries & benefits, printing and associated costs.

Ms. Smith reviewed the fiscal committee report. This report is prepared by the DHS Division of Fiscal Management and is shared with the Legislative Fiscal Bureau on a monthly basis. The report compares actual expenditures by month to projected expenditures. Actual expenditures through May are \$2.6 million while projected expenditures through May were \$2.66 million.

Enrollment:

Medicaid expansion: Projected enrollment - 15,223; actual enrollment - 16,148.

hawk-i Dental-only: Projected enrollment - 12,005; actual enrollment - 3,500. This is the first year for the dental only program and estimates were based on the best information at that time, which has proven to be significantly over estimated.

Even though *hawk-i* enrollment is up 1,700 kids, the overall projection and participation is down by 6,700 kids primarily because of the over estimation of the dental only program.

Expenditures:

Ms. Smith presented information showing the history of CHIP expenditures for each fiscal year since implementation. The information identified the amount of state and federal funds; showing there is a 3:1 ratio.

- **Legislative Update:** Ms. Smith reported that the Governor's recommended SFY '12 budget for CHIP is \$33,146,152. The Omnibus bill takes \$250,000 of the Governor's recommendation off the top and also eliminates outreach funding of \$219,000. Between the two bills, there is \$469,000 difference with the Omnibus bill total funding at this point of \$32,667,152.

Mr. Hutter asked about the status of HSB 238; the bill that proposed that all marketing for any state agency go through the Department of Administrative Services. Mr. Hutter stated he believed that this would have a large impact on outreach for the *hawk-i* program. Jennifer Vermeer responded that the house bill eliminated all outreach, so there would be no marketing of any kind. Mr. Hutter asked what is the plan to deal with that. Ms. Vermeer stated that if the legislature decides to remove all funding for marketing, outreach wouldn't be done, it would just be word of mouth, or as people find out about the program. Mr. Hutter asked about the school nurses who know about the program. Ms. Smith stated the school nurses would still be able to do presumptive eligibility, but there would not be a contract with the Dept. of Public Health and all media would be eliminated. Ms. Smith stated her concern is that the outreach funding also includes the cost of printing brochures and applications. Mr. Hutter asked if this meant there wouldn't be any applications. Ms. Smith responded that funding would need to be identified but the good news is that about 50% of applications are being filed online so costs will be reduced.

- **Federal Report:**

Ms. Smith reported on a recent meeting she attended in Washington D.C. The Future of CHIP and Children's Coverage, was a discussion around implementing the Affordable Care Act (ACA) in January 2014, hosted by the National Academy for State Health Policy and funded by the David & Lucile Packard Foundation.

Discussion included:

- There is recognition that CHIP 'sits on the shoulders' of Medicaid and the debate about repealing CHIP is controversial.
- Recognition that CHIP has been working well. States need to decide whether to keep it intact after ACA implementation and see how it goes or to change the structure.
- There's concern that coverage in the Exchange has deteriorated from initial discussions (i.e., the intent was that children going into the Exchange would have at least as good of benefits as they did under CHIP).
- In recognition of state fiscal pressures, there is debate in Congress about eliminating the Maintenance of Effort (MOE) requirements and the national deficit is contributing to that discussion.
- Consideration needs to be given to developing a framework around what children need vs. keeping a specific program:
 - Affordability – cost sharing in CHIP is limited to 5% of family income vs. 9.5 % in the Exchange.
 - Benefits children need with focus on quality measures
 - Family perspective as a whole (i.e. kids in one program/parents in another)
 - Outsized impact of CHIP – while a small program, it has had major political impact.

- States can't be confident that the Exchanges will be up and running as robustly as they should be in 2014.

Key Policies

- Firewall Issue (aka "Family Discrimination") – when can families access the Exchange? i.e. if the employer offers coverage, the family has to enroll. But, what happens if the coverage is not affordable (cost sharing in Exchanges is up to 9.5%)? Family may have to take employer coverage regardless.
- Multi-Coverage Scenarios- Child in CHIP, parent on Exchange + one parent with employer coverage. How does cost sharing limit apply in multiple coverage scenarios? An Urban Institute study shows there are between 16 & 17 million families with mixed coverage sources.
- How will crowd-out scenarios be impacted?

CMS – CMS is working on the new federal eligibility rules using the Modified Adjusted Gross Income (MAGI). Using MAGI will change the way states calculate households and income to determine eligibility by using income tax records.

Questions from States

- Is there any feeling that all CHIP programs will look alike nationally?
- What income flexibility will there be? How can states keep employers engaged in the health care market? (Independent of the ACA, the trend is for employers to offer employee only vs. family coverage).
- Should states consider implementing a standard benefit package for families and single adults between 133% of the federal poverty level (FPL) [Medicaid] and Exchange that will allow families to bridge to more cost sharing, etc. Essentially, create a CHIP-like program to continue to 'sit on the shoulders of Medicaid' for families up to 200% of FPL and then the Exchange for families up to 400% of FPL.

Mr. Hutter inquired if the Board would have to wait until 2014 to change the premium of \$20/40. Ms. Smith replied yes, unless they repeal the maintenance of effort requirement. Mr. Hutter voiced concern that the capitation fee of approximately \$180 dollars per child per month continues to increase yearly but the premiums the families pay can't increase until approximately 2019? Ms. Smith said this true with the current maintenance of effort that is in place by the federal government. Mr. Hutter reported he receives comments from people that after seeing the television ads that a family of four making \$52,000 a year can pay \$40 for health insurance, is both good and bad. Mr. Hutter feels that there should be offset. Ms. Vermeer explained that the maintenance of effort is being discussed by the governors, congress and the administration and the governors been advocating heavily for changes to be made.

VI. **IFMC Contract**

Anna Ruggle stated that at the last Board meeting, the RFP contract for data analysis was awarded to IFMC. This contract is a result of the RFP and now needs Board approval.

There is no change in the scope of service as in the RFP and the cost is the same as in the proposal. Ms. Smith also stated that the scope of work meets the requirements mandated in CHIPRA. Ms. Boston asked to entertain a motion. Mr. Donoghue moved to approve. Ms. McMahon seconded. Ms. Boston asked for any discussion. Mr. Hutter asked about section 1.3.1.1 Clinical Advisory Committee, the committee should be made up of a variety of health providers, currently there are 3 people on this committee? Ms. Ruggle responded that the committee lost member participation and has not met for a few years. The Board was made aware of this in previous meetings. This contract will re-establish the committee, IFMC will recruit members and then the Board approves the members. The Board will receive minutes of the committee members. Ms Smith explained the history of the Clinical Advisory Committee.

Ms. Boston asked for the vote. The motion was approved unanimously.

VII. **Review of Board By-laws**

Brad Horn addressed recent questions from the Board on what constitutes a quorum and what is a majority vote required under the current by-laws. There is a wide range of definitions across state agencies and committees and Mr. Horn presented some examples. Mr. Horn stated that the AG's office has had to address whether the rules boards conduct themselves by should be administrative rules or by-laws. From an analysis of the provisions in Chapter 17A on the Administrative Procedure Act, the question that needs to be addressed is "Does the Board want the definitions in by-laws or administrative rules?"

Quorum

- There are issues with a quorum or a majority vote being a specific number, such as if a seat is not filled by the Governor's office and someone else cannot make it, it could make it difficult for decisions to be made.
- Currently the by-laws state a quorum is 5. Ms. Smith stated that this was decided by one of the early Boards. A quorum is 2/3rds of the voting members. Since there are 7 members, they decided on 5. Mr. Horn stated if a change is made the board could say a quorum consists of 2/3 of the currently seated Board members, in case you have some vacancies. Mr. Hutter stated that he had brought this up and wondered why it was 5 instead of 4. He stated he was fine with 5.

Majority Vote

- Mr. Horn stated the Board could be more specific on what a majority vote is in the by-laws or administrative rules and he recommended that the Board establish a majority of the members present voting in favor of the motion.

Robert's Rules of Order

Mr. Horn and Mr. Hutter discussed Robert's Rules of Order regarding a majority vote. Mr. Horn stated an abstained vote is not counted. The votes that are counted are those who either voted yes or no. The motion is approved or rejected based on the majority of those who voted yes or no. For example there are 6 people who could vote. One member abstains. The other 5 vote, 3 vote for the motion, 2 vote against the motion. The majority is 3 so the motion is approved.

Mr. Hutter believes the vote is approved when the majority of those present at the meeting for in favor of the motion. So, in the above example, 4 members would need to vote for the motion for the motion to be approved.

Since there can be a disagreement with the interpretation of Robert's Rules of Order, Mr. Horn recommended that if the Board wants to state a majority of the people present at the meeting have to vote in favor of a motion for it to pass, then this should be written in the by-laws

Board Direction

Ms. Smith stated that the by-laws provide direction to the Department on how to staff the Board. In the past, the Board directed the Department as follows:

- The Department does not need to bring contracts for Board approval if they are under \$15,000.
- Board minutes should be summaries of meeting vs. verbatim transcripts.
- The Department advises the Board about RFP's, but the Department is responsible for developing, issuing, and selecting an evaluation committee for the RFP. The Department then brings the evaluation committee's recommendation to the Board for a decision on the contract.

The Board can determine what the rules and the by-laws for the Board are but the Department needs to know specifically what the Board wants so the Department can staff the Board appropriately and provide the information wanted.

Ms. Boston asked the Board if it is the will of the Board to make any changes to the by-laws, if the Board required additional information, or did the Board want to form a committee to discuss this in greater detail. Mr. Skow asked if the issue with the quorum and the majority vote was an issue prior to the last meeting. Ms. Boston replied no. Mr. Skow stated he was reluctant to change the by-laws at this time. Mr. Hutter stated he was not asking for a change in the by-laws.

Decision

Ms. Boston stated that the Board would continue to operate under the existing by-laws and monitor the process to identify whether changes needed to be made in the future.

VIII. Review of Procurement Process

In response to questions raised at the last meeting about whether Board members could review the actual bids received during the evaluation process before a vendor was selected by the evaluation committee, Mr. Horn responded: The Board reviewing the bids could cause delays in the processes (often the bids are quite large) and this raises some issues:

1. The Board would need to review the bids independently and not in a public meeting as once the bids are referenced in a public meeting, they become public. Bids often have sections that are marked confidential and there are rules that need to be followed for confidentiality. There is no justification for having a closed meeting because of the non confidentiality sections.
2. The Board would need to sign conflicts of interests and confidentiality statements. All evaluation committee members must sign these statements to ensure no bias towards any of the vendors and that no information will be let out until the process is complete.

Sealed Bids vs. Open Bids (or when a bid is/is not public)

Mr. Horn explained that the Attorney General's office decided to treat bids in the RFP process as sealed until the time a Notice of Intent to award the contract is issued. This maintains the confidentiality of all vendors and allows the evaluation committee to do their work without requests for open records at the same time. Once the Notice of Intent to award a contract is issued, then the sections of the bids that are not marked confidential can be released to interested parties.

Mr. Hutter stated he believed that the opening of the sealed bids is when the bids become public. It is posted that the bids will be open on day X and you are invited to attend we will open up the bids. Mr. Horn replied that the RFP process is not a sealed bid. In the RFP process, bids are open at the time they arrive and are reviewed for mandatory requirements, and then the bids are sent to the evaluation committee. The bids are kept confidential until the notice of intent to award the contract is issued to avoid dealing with lawsuits relating to open records at the same time.

Development of the RFP and Required Timeline

Mr. Horn stated that when developing the RFP, it is important not to have one vendor learn about the RFP before others. Also, Iowa law requires that a 48-hour advance notice be posted to the targeted small business website before the RFP is issued. In order to meet these requirements, it is important to limit the people who have knowledge of the RFP. If the Board chooses to see the RFP prior to release, it can be done but extra steps are required to ensure the confidentiality of the RFP.

Board Direction

Ms. Smith stated that in the past, the Board has given the Department direction to develop the RFP, issue the RFP then notify the Board that the RFP has been published. The Department then chooses an evaluation committee. The evaluation committee reviews and scores the bids, writes the recommendation and then presents the recommendation and any necessary documents in order for the Board to make a decision. This would be consistent with the contract purpose.

Mr. Hutter stated he only want the information that the Board is entitled to receive and to do what is legal.

Decision

Ms. Boston invited the Board to let Department staff know if there is information that the Board would like. She stated that everyone should feel comfortable in making the decisions that have to be made.

The Board decided not to change the by-laws at this time and to have staff proceed with the RFP process previously established.

IX. Public Comment

- No comment

X. Wellmark Drug Formulary Changes

Marcia Stark reported that Wellmark is making changes in their drug formulary that will affect all members, including *hawk-i* children. Changes generally occur twice a year (January and July) when drugs go from a brand name to a generic. If a *hawk-i* member chooses to use a brand name drug when a generic is available then the member must pay for the drug. Changes include:

- The mail order pharmacy vendor will change from Walgreens to IPS. This will affect 16 *hawk-i* members.
- Concerta, a drug for attention deficit hyperactive disorder, will go from brand to generic. This change will be handled by the pharmacies and affects 216 *hawk-i* children.
- Inhaled corticosteroids for treatment of asthma, not including Dulera and Qvar, have been added as a generic. This will require a new prescription. Advair and Flovent will need to be prior approved before Wellmark will cover the prescription. This change affects 280 *hawk-i* members.
- Solodyn-ER for acne treatment is being removed from generic and replaced by generic Minocycline immediate release. This change will affect 86 *hawk-i* members.

Physicians and pharmacists were notified of these changes.

XI. Flooding in Western Iowa Counties- Emergency Actions

Ms. Stark informed the Board of the actions Wellmark is taking for *hawk-i* members who may need assistance due to the flooding in western Iowa counties. This includes replacing lost ID cards, lost medications, and damaged durable medical equipment.

XII. Nominating Committee for the Election of Officers for SFY 2012

Ms. Boston stated that in the past a nominating committee was set up for the election of officers for the next fiscal year. The nominating committee will present their candidates for the Chair and Vice Chair at the next meeting, the Board would then vote for the officers and the officers would start their position at the October board meeting. Mr. Skow moved that the nominating committee will be Jim Donoghue, Kathy Pearson and Julie McMahon, seconded by Mr. Hutter. The motion was revised to include Kim Carson if she desires. The motion was passed unanimously.

XIII. New Business

- Auditing of the *hawk-i* program.

Representative Mark Lofgren asked what audit mechanism is used to make sure people who are on the program should be on it. Ms. Smith stated that eligibility for the *hawk-i* program, like Medicaid, is based on family income and resources are not taken into consideration. So bank accounts, property, cars, etc. are not considered in determining eligibility. The elimination of the asset test is one of the criteria the federal government has included for states to get bonuses for simplifying eligibility and enrollment.

Auditing is done by the Department's quality control bureau. Every month 25 cases are pulled for review. The family is contacted to verify income, as are other resources such as utilizing data bases and employer contacts. Verification of income is required at application and recertification and if reports are received that someone didn't report their income accurately, the complaint is researched. The error rate is less than 3%.

Representative Lofgren asked if all income is used, earned income and passive income. Ms. Smith stated all earned income is counted and unearned income such as child support, social security, unemployment benefits. There are some types of income that are not counted such as interest income. To determine eligibility, projections of what income is expected for the next 12 months are used. Income is re-evaluated on an annual basis.

- Residency

Mr. Hutter asked about residency requirements. Ms. Smith stated that in Iowa, anyone who enters the state with the intent to reside here, looking for a job, or who does not maintain a residence elsewhere is considered a resident. There is no minimum amount of time required. Proof of residency is not required for the *hawk-i* program. When there is a question of whether a person lives in Iowa, a referral can be made to DIA for investigation.

- Another RFP related question

Ms. Pearson asked, "With the contract that was approved today, one bid was \$3 million and the other \$756,000 - quite a difference as we discussed. Is there any consideration, or do you ever go out and get a 3rd bid to see where that one might fall? I know Brad you said that people can give very wide ranges, but do you ever do that just as a comparison to make sure we are getting an adequate bid for the services requested?" Mr. Horn replied that RFP is issued for anyone who is interested to apply and sometimes there are a lot of bids, sometimes it's one and sometime it's none.

XIV. Adjourn

Mr. Hutter moved to adjourn the meeting. Jim Donoghue second. The motion passed. Meeting adjourned at 2:00pm.

Respectfully Submitted by Anna Ruggle